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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/073,015

02/12/2002

Alexander van der Lely

8553/250

5072

7590 02/21/2007  
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EXAMINER

HAYES, BRET C

ART UNIT

PAPER NUMBER

3641

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

02/21/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/073,015	<b>Applicant(s)</b> VAN DER LELY ET AL.	
	<b>Examiner</b> Bret Hayes	<b>Art Unit</b> 3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 November 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 55-104 is/are pending in the application.
- 4a) Of the above claim(s) 96-104 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 55,56,58-60 and 95 is/are rejected.
- 7) ☒ Claim(s) 57 and 61-94 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 95 – 104 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 22 NOV 06.

2. Applicant's election with traverse of the restriction requirement in the reply filed on 22 NOV 06 is acknowledged. The traversal is on the ground(s) that “to determine statuses” is insufficient grounds for such a restriction. This is not found persuasive because the method claim 96 requires determining the statuses, while the apparatus claims 55 with 58, for example, includes such statuses in a computer having a memory. The memory ‘contains data for each animal of the herd relating to the status of each animal’. Therefore, an animal’s status need not be ‘determined’ as required by claim 96 as it has already been so determined.

The requirement is still deemed proper and is therefore made FINAL.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 55, 56, 58 – 60 and 95 are rejected under 35 U.S.C. 103(a) as being unpatentable over Broadbent in view of Huisma (both previously cited).

5. Re – claim 55, Broadbent discloses an arrangement for managing a herd of domesticated animals which comprises an animal identification system **39**, at least one feeding trough **7A – 7F** which is disposed and dimensioned so it can only feed one of said animals at a time, said feeding trough including closure means **15** for selectively precluding said animals from consuming feed therefrom. However, Broadbent does not disclose , a central unit provided with a computer having a memory, said memory containing data for each animal of the herd relating to the status of each said animal in the hierarchy order of the herd, said data being utilized to aid in the management of the accessibility of each animal of said herd to said feeding trough.

Huisma discloses a central unit **24** provided with a computer **14** having a memory (a memory is inherent in the normal definition of a computer), said memory containing data for each animal of the herd relating to the status of each said animal in the hierarchy order of the herd, said data being utilized to aid in the management of the accessibility of each animal of said herd to said feeding trough, as set forth beginning at col. 8, line 63, in the same field of endeavor for the purpose of tracking hierarchical behaviors of domestic animals.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Broadbent to include the central unit, computer, etc., as taught by Huisma in order to track hierarchical behavior in animals.

6. Re – claim 56, Broadbent in view of Huisma further discloses monitoring hierarchy behavior in order to supply different rations to individual animals based upon that monitoring.

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7. Re – claim 58, Broadbent in view of Huisma further discloses jostling behavior, see col. 9, line 3, for example, “agonistic”, which in this context, according to *Merriam-Webster Online*, would mean “of, relating to, or being aggressive or defensive social interaction (as fighting, fleeing, or submitting) between individuals usually of the same species”, which is to say jostling behavior.

8. Re – claim 59, Broadbent in view of Huisma further discloses wherein the herd is managed with the aid of data regarding each animal’s jostling behavior being stored in the memory.

9. Re – claim 60, Broadbent in view of Huisma further discloses an input means for inputting for each animal statuses of such animal regarding its hierarchy and jostling behavior. While perhaps not explicitly so stated, Huisma clearly shows a computer in FIG. 2, for example, the components of which must, by definition, include an input means.

10. Re – claim 95, Broadbent in view of Huisma further discloses determining the order in which animals use a feeding or drinking station or both, see col. 9 citation above.

***Allowable Subject Matter***

11. Claims 57 and 61 – 94 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

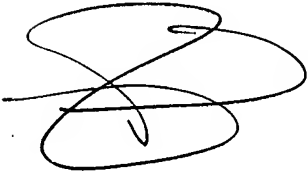
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*Conclusion*

Any inquiry concerning this communication should be directed to Bret Hayes at telephone number (571) 272 – 6902 or email address [bret.hayes@uspto.gov](mailto:bret.hayes@uspto.gov). The examiner can normally be reached Monday through Friday from 5:30 am to 2:00 pm, Eastern Standard Time.

The Central FAX Number is **571-273-8300**.

If attempts to contact the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone, can be reached at (571) 272 – 6873.

A handwritten signature in black ink, appearing to be 'Bret Hayes', with a stylized, cursive script.

Bret Hayes

20-Feb-07